

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: Brooks et al.
Patent No: 7,601,694 (Appl. No. 10/782,728, filed February 18, 2004)
Issued: October 13, 2009
For: CLK-PEPTIDE AND SLK-PEPTIDE
Examiner: Teller, Roy R.
Art Unit: 1654
Confirmation No.: 3396

Mail Stop Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Request for Reconsideration of Patent Term Adjustment
Under 37 C.F.R. § 1.705(d)

Sir:

It is hereby respectfully requested that the Office reconsider the Patent Term Adjustment determined in the above-referenced U.S. Patent No. 7,601,694 and revise the Patent Term Adjustment to **925 days**, which is believed to be the correct Patent Term Adjustment.

The bases for the revised Patent Term Adjustment are *Wyeth v. Dudas*, No. 07-1492 (D.D.C. Sept. 30, 2008), and the relevant dates, below, showing examination delay of 32415 7601694 under 37 C.F.R. §§ 1.702(a) and 1.702(b) and the period of adjustment under 37 C.F.R. § 1.703. 01-EC-1455 282-02 PA

	<u>Relevant Dates</u>	<u>Period of Adjustment</u>
Examination Delay under 37 C.F.R. § 1.702(a)	<p><i>37 C.F.R. § 1.703(a)(1)</i></p> <ul style="list-style-type: none"> Filing date of the application: <u>02/18/2004</u> 14 months after the filing date of the application: <u>04/18/2005</u> First action mailed: <u>06/27/2006</u> 	Difference for which patentee should receive credit: <u>+435 days</u>
	<p><i>37 C.F.R. § 1.703(a)(3)</i></p> <ul style="list-style-type: none"> RCE filed: <u>07/30/2008</u> 4 months after the date RCE was filed: <u>11/30/2008</u> Notice of Allowance mailed: <u>03/23/2009</u> 	Difference for which patentee should receive credit: <u>+113 days</u>
	<p><i>37 C.F.R. § 1.703(a)(6)</i></p> <ul style="list-style-type: none"> Date Issue Fee was paid: <u>05/29/2009</u> 4 months after the date Issue Fee was paid: <u>09/29/2009</u> Date patent issued: <u>10/13/2009</u> 	Difference for which patentee should receive credit: <u>+14 days</u>
Examination Delay under 37 C.F.R. § 1.702(b)	<ul style="list-style-type: none"> Filing date of the application: <u>02/18/2004</u> Three years from filing date of the application: <u>02/18/2007</u> Issue date of patent: <u>10/13/2009</u> Filing date of RCE: <u>7/30/2008</u> 	Difference for which patentee should receive credit: <u>+528 days</u>
Circumstances under 37 C.F.R. § 1.704	<p><i>37 C.F.R. § 1.704(b)</i></p> <ul style="list-style-type: none"> Date Office Action or Notice mailed: <u>02/27/2007</u> 3 months from date Office Action or Notice was mailed: <u>05/27/2007</u> Complete Response filed: <u>07/27/2007</u> 	Difference for which § 1.702 period of adjustment should be reduced: <u>-61 days</u>
	<p><i>37 C.F.R. § 1.704(b)</i></p> <ul style="list-style-type: none"> Date Office Action or Notice mailed: 	Difference for which § 1.702 period of adjustment should be

	<u>10/25/2007</u> <ul style="list-style-type: none">• 3 months from date Office Action or Notice was mailed: <u>01/25/2008</u>• Complete Response filed: <u>02/25/2008</u>	reduced: <u>-31 days</u>
	<u>37 C.F.R. § 1.704(c)</u> <ul style="list-style-type: none">• Date Reply was filed: <u>02/25/2008</u>• Date of Submission of other paper (IDS): <u>04/14/2008</u>	Difference for which § 1.702 period of adjustment should be reduced: <u>-49 days</u>
	<u>37 C.F.R. § 1.704(c)</u> <ul style="list-style-type: none">• Date Rule 312 Amendment filed: <u>04/21/2009</u>• Date of Response to 312 Amendment: <u>05/14/2009</u>	Difference for which § 1.702 period of adjustment should be reduced: <u>-24 days</u>
Total		<u>+925 days</u>

Pursuant to the recent decision by the U.S. District Court for the District of Columbia in *Wyeth*, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 C.F.R. § 1.702(b) in addition to any examination delay under 37 C.F.R. § 1.702(a), to the extent that the two periods of delay “do not occur on the same calendar day or days.” A copy of *Wyeth* is attached hereto as “Attachment A” for the Office’s convenience.

Thus, it is believed that the present patentee is entitled to credit for the sum of 562 days under 37 C.F.R. § 1.702(a) and 528 days under 37 C.F.R. § 1.702(b), for a total of 1090 days, subject to a reduction of 165 days under 37 C.F.R. § 1.704, for a ***total Patent Term Adjustment of 925 days***, as outlined in the table above.

The above referenced patent is not subject to a terminal disclaimer.

This Request is timely filed under § 1.705(d) because it is being filed within two months of the date the above-referenced patent issued, October 13, 2009, and it does not raise an issue that was raised or could have been raised in an Application for Patent Term Adjustment under 37 C.F.R. § 1.705(b). Please revise the Patent Term Adjustment as set forth above and charge the fee required by 37 C.F.R. § 1.18(e) estimated to be in the

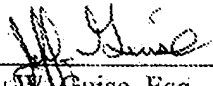
7,601.694 (Appl. No. 10/782,728, filed February 18, 2004)
Issued October 13, 2009

amount of \$200.00 to Wilson, Sonsini, Goodrich & Rosati Deposit Account No. 23-2415
(Docket No. 31747-705.201).

Respectfully submitted,

Dated: December 11, 2009

By: _____


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